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9
10 **UNITED STATES DISTRICT COURT**
11
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 ELIA HAGGAR; KYO HAK CHU;
14 VALERIE BROOKS, individually
15 and on behalf of themselves and all
16 others similarly situated,

17 Plaintiffs,

18 v.

19 KMArt CORPORATION, a
20 Michigan corporation; and DOES 1 to
21 10, inclusive,

22 Defendants.

23 CASE No.: 2:19-cv-01461-AB-GJS

24 *Assigned for all purposes to Hon. Andre
25 Birotte Jr.*

26
27 **AMENDED MOTION FOR ENTRY
28 OF DEFAULT JUDGMENT AS TO
DEFENDANT KMArt
CORPORATION**

29 Date: September 13, 2019
30 Time: 10:00 a.m.
31 Courtroom: 7B

1 Plaintiffs respectfully request that this Court enter a default judgment against
2 Defendant Kmart Corporation pursuant to Federal Rule of Civil Procedure 55(b)
3 for failure to plead or otherwise defend this action.

4 On **February 28, 2019**, Plaintiff's commenced this civil action to obtain
5 preliminary and permanent injunctive and other equitable relief for Defendants'
6 violation of 42 U.S.C. § 1281 and Unruh Civil Rights Act Cal. Civ. Code § 51(f).
7 A copy of said Complaint is attached hereto as **Exhibit A**.

8 On **March 21, 2019**, a copy of said Complaint and Summons in a Civil
9 Action were served by Plaintiffs upon Defendant Kmart Corporation's registered
10 agent. A copy of the proof of service is attached hereto as **Exhibit B**.

11 On **June 10, 2019**, after more than twenty-one days had elapsed since the
12 service of said Complaint and Summons upon Defendant, and no Answer thereto
13 having being served by Defendant, Plaintiffs filed a Request for Clerk's Entry of
14 Default Judgment. A copy of Plaintiffs Request for Clerk's Entry of Default is
15 attached hereto as **Exhibit C**.

16 On **June 13, 2019**, the Court entered default judgment on all counts of the
17 Complaint against Defendant Kmart Corporation for their failure to defend. A copy
18 of the Default by the Clerk is attached hereto as **Exhibit D**.

19 Defendant has failed to plead or otherwise defend this action, and the
20 Plaintiffs are entitled to judgment by default against Defendant. Pursuant to the
21 provisions of Rule 55(b)(2), Federal Rules of Civil Procedure, this Court is
22 empowered to enter a default judgment against the Defendant for relief sought by
23 Plaintiffs in their complaint, and written notice of this action has been given to
24 Defendant as set forth in the declaration attached hereto as **Exhibit E**.

25 Wherefore, Plaintiff requests this Court enter a judgment of default against
26 Defendant in the amount of Five Million Dollars (\$5,000,000.00). This amount
27 shall become immediately due and payable by Defendants upon entry of this Order,

1 and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended,
2 shall immediately begin to accrue on the unpaid balance.

3 This case's damages are according to the Unruh Civil Rights Act, Cal. Civ.
4 Code §§ 51, *et seq.* which award a statutory minimum damage of \$4,000 per offense
5 per person pursuant to section 52(a). For example, in *National Federation of The*
6 *Blind, et al., v. Target Corporation*, 2008 WL 4177568 (N.D.Cal.), the settlement
7 fund was of \$6,000,000 for payment of damage claims to members of the California
8 subclass. The value of this judgment is calculated even below that.

9 For the foregoing reasons, Plaintiffs respectfully request that the Court enter
10 a default judgment against Defendant pursuant to Federal Rule of Civil Procedure
11 55(b).

12
13 Dated: August 2, 2019

14
15 Respectfully Submitted,

16 /s/ Thiago M. Coelho

17 Thiago M. Coelho

18 Bobby Saadian

19 **WILSHIRE LAW FIRM**

20 *Attorneys for Plaintiffs and
Proposed Class*

PROOF OF SERVICE

Haggar, et al v. Kmart Corporation, et al
2:19-cv-01461-AB-GJS

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
)

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 3055 Wilshire Blvd., 12th Fl., Los Angeles, California 90010. My electronic service address is alichia@wilshirelawfirm.com. On **August 2, 2019**, I served the foregoing document described as:

**1. AMENDED MOTION FOR DEFAULT JUDGMENT AS TO DEFENDANT KMAR
CORPORATION**

[] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[] **BY PERSONAL DELIVERY:** I delivered said document(s) to the office of the addressee shown above under whom it says delivered by personal delivery.

BY OVERNIGHT DELIVERY: I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

CT Corporation System
c/o Kmart Corporation
818 West Seventh Street, Suite #930
Los Angeles, CA 90017

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **August 2, 2019** at Los Angeles, California.

Alichia Love
Type or Print Name

 Signature